

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMERICAN CIVIL LIBERTIES UNION,
et al.,

Plaintiffs,

v.

ALBERTO R. GONZALES, in his official
capacity as Attorney General of the United
States,

Defendant.

Civil Action No. 98-CV-5591

**DEFENDANT'S SUPPLEMENTAL RESPONSE
TO PLAINTIFFS' INITIAL INTERROGATORIES**

Defendant Alberto R. Gonzales, in his official capacity as Attorney General of the United States, hereby submits his supplemental response to Plaintiffs' Initial Interrogatories.

INT. Q. State whether any speech on the Plaintiffs' web sites is "harmful to minors" under the definition in COPA and identify any such speech.

Defendant has reviewed various web pages cited by the following Plaintiffs in their responses to Defendant's Interrogatory 13 and/or in the Amended Complaint:

- A. Nerve.com, Inc. (www.nerve.com)
- B. John W. Boushka (member of Electronic Frontier Foundation), now operating www.doaskdotell.com
- C. Salon Media Group, Inc. (www.salon.com)
- D. Heather Corinna (www.scarletletters.com, www.scarleteen.com, and www.femmerotic.com)

Defendant's preliminary assessment is that a court or jury is unlikely to find beyond a reasonable doubt that the specific web pages referenced above violate COPA, e.g. the pages do not "taken as

a whole, lack[] serious literary, artistic, political, or scientific value for minors.” 47 U.S.C. § 231(e)(6)(C); *see also* S. REP. NO. 105-225, at 12-13 (1998) (“On this third prong, the Committee intends that the material be taken as a whole and be considered in the context of serious value as to minors. This definition ensures that the bill may not be construed as to restrict access to public health information, art, literature, and political information.”).

Dated: March 13, 2006

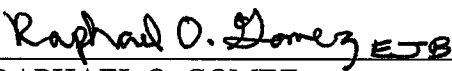
Respectfully submitted,

PETER D. KEISLER
Assistant Attorney General

PATRICK L. MEEHAN
United States Attorney

RICHARD BERNSTEIN
Assistant U.S. Attorney

THEODORE C. HIRT
Assistant Branch Director
United States Department of Justice


RAPHAEL O. GOMEZ
Senior Trial Counsel
ERIC J. BEANE
Trial Attorneys
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave., N.W.
P.O. Box 883
Washington, D.C. 20044
(202) 616-2035
Eric.Beane@usdoj.gov

Attorneys for Defendant